Of course, the full number portability regulations also need to address appropriate forms of interim portability until the final implementation of full portability.[25] It is important that the Commission's regulations preserve existing forms of interim portability that have been ordered by the states, while also ordering interim portability based on out-of-band signaling which preserves as much vertical service functionality as possible.

Thus, the Commission's basic task is to promptly adopt regulations insuring that full number portability is implemented in the states as quickly as possible, along with robust interim portability rules, and requirements insuring that cost recovery is "on a competitively neutral basis."

The principal focus of the Commission's regulations should be: (1) to list all the forms of number portability which have passed technical trials or been accepted through industry consensus; (2) to order the states to promptly implement one a form of full number portability conforming to certain basic criteria;[26] and, (3) to insure competitively neutral cost recovery by:

- requiring that internal costs be borne by each participant, and external costs be bid out to third parties; and

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[24](...continued)
requiring ILEC dips (as in Pacific Bell's "Return to pivot" proposal).

[25] No state has adequately addressed the issue of interim number portability, which ALTS considers a stopgap measure at best, and degrades the quality of its member companies' service offerings. Given the deficiencies involved in the interim offerings, it should be provided at no cost to the new entrant. If any charges are to be assessed, the Commission should view the Rochester plan as closest to what the '96 Act intends. In ***Joint Stipulation and Agreement,*** NYPSC 93-C-0103, the costs, after the initial set up charges absorbed by the incumbent, are recovered in a competitively neutral manner across all working numbers (at 47-48): "R-Net will forward calls to the other network carrier using either call forwarding or Direct Inward Dialing or other suitable arrangements at R-Net's option ... To compensate R-Net for its additional switching costs, R-Net will establish a monthly surcharge on all working numbers provided by R-Net ... R-Net will absorb, without additional end user charges, the surcharge applicable to the numbers on which it provides service directly to end users ...."

[26] Such criteria should include: true number portability; compatibility with data base solutions; either IN or AIN triggering; preservation of full feature interactions, including all SS-7 based functionality; efficient allocation of access revenues; ten digit routing; and an N-1 call processing scenario.

- prohibiting any recovery of internal or external costs through a separate bill item (which would unfairly stigmatize CLECs as the cause of the charge). The Commission has already encountered a charge designed to help implement competition which was recovered in a competitively neutral basis -- the Equal Access and Network Reconfiguration charge. Although AT&T had no direct benefit from competition, it paid the proportionate costs of converting local networks to equal access. The same principle should apply to recovery of third-party number portability costs.

III. SECTION 252 - NEGOTIATION AND APPROVAL OF SECTION 252 AGREEMENTS

Sections 251 and 252 clearly require that all existing and future interconnection agreements be submitted to state commissions for approval (Section 252(a)(1)), in order take effect as Section 252 agreements. It is also manifest that non-party carriers are expressly authorized to order "any interconnection, service, or network element" provided in a Section 252 agreement (Section 252(i)). In order to fully protect this clear statutory right of non-party carriers to order from Section 251 agreements on an unbundled basis (i.e., order any portion of an agreement implementing particular paragraphs of Section 251(b) or (c)), the Commission should incorporate an express unbundling requirement in its regulations.[27]

A. Unbundling of Section 251(b) and (c) Agreements

Given the Act's express requirement that any Section 252 agreements be available to non-party requesting carriers on an unbundled basis, this statutory requirement should be clearly stated in the Commission's Section 251 regulations. Failure to reiterate this simple and obvious requirement would be a "green light" for gamesmanship by the incumbent local exchange carriers which would pointlessly consume resources and possibly cripple implementation of the Act. On the other hand, there is no need to require completely disaggregated unbundling in order to protect the '96 Act's goal of trying to equalize bargaining power, and

[27] The structure of Sections 251 and 252 statute would effectively require an unbundling requirement even in the absence of Section 252(i)'s express language. Since carriers can demand and reach agreements for individual paragraphs of Section 251, and non-party carriers could then effectively order on an unbundled basis from each agreement, it would make no sense to allow an ILEC to bundle together portions of an agreement which implement different subsections or paragraphs of Section 251(b) or (c).

minimize pricing distortions. ALTS seeks unbundling only down to the level of the individual provisions of the subsections and individual paragraphs of Section 251.[28]

B. State Approval of Section 251 Agreements

Section 252(e)(2) requires states to include compliance with the Commission's regulations in their review of arbitrated agreements, and also requires that negotiated agreements be non-discriminatory. In order to insure these goals, the Commission's regulations should include the following requirements:

- Section 252(a)(1) requires that "any interconnection agreement negotiated before the date of enactment shall be submitted to the state" for approval under Section 252(e). Because Section 252(i) requires that Section 251 agreements be made available to all requesting carriers, the regulations should provide that: (1) all such agreements must be made public by the ILECs; and, (2) carriers must submit such existing agreements to the state for approval under Section 252(e).

- Any state order approving existing agreements under Section 251 shall identify any changes as may be required for approval, and shall order that the existing agreement will not take effect as a Section 252 agreement (without prejudice to any ongoing effectiveness it may have as a non-Section 252 agreement; i.e., an agreement which deal with topics other than interconnection) until such changes have been implemented.

- State orders approving specific Section 252 agreements must find that the agreement complies with the applicable statutory provisions, and identify the portions of the agreement which meet those standards. Any state order which approves an agreement under Section 251 and Section 252 without identifying the portion of the agreement which comply with particular provisions may take effect pursuant to the state approval, but will not be deemed an agreement in compliance with any portion of Section 251 or Section 252.

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[28] As noted supra at n. 5, this general rule has at least one exception. Individual network elements provided pursuant to Section 251(c)(2) must be provided individually to non-parties on an unbundled basis. See Section 251(c)(2): "The duty to provide ... non-discriminatory access to network elements on an unbundled basis ...;" emphasis supplied.

- Section 252(e)(2)(A) provides that states may approve any negotiated interconnection agreement absent a demonstration of discrimination against any carrier, or some inconsistency with the public convenience and necessity. Section 252(e)(2)(B) provides that states may approve arbitrated agreements unless they do not comply with Section 251 or Section 252(d), and the Commission's regulations. Accordingly, the Commission's regulations should provide that neither negotiated nor arbitrated agreements approved prior to the effective date of these regulations will qualify under Section 251 until such agreement are resubmitted to the State for approval.

- Section 252(e)(4) provides that agreements submitted for state approval become effective if the state fails to act withing ninety days. Because the absence of state action necessarily precludes any immediate state review for compliance with the Commission's regulations, the Commission should require that agreements which become effective by state inaction do not discharge any specific requirements individually set forth in any individual paragraph of Section 251 or Section 252 (even though they do take legal effect between the parties under Section 252(e)(4)), unless it is resubmitted to the State for approval, and a written approval containing the findings required by the Act and the Commission's regulations is issued by the state.

- If the Commission declines to adopt the above proposal (that agreements approved by state non-action are presumed not to qualify under the specific paragraphs of Section 251(b) or (c)), then it should at least find that non-action in those circumstances constitutes a failure by the state to comply with its responsibilities under the Act. (Section 252(e)(5) requires the Commission to issue a notice and assume responsibility of a state concerning a Section 251 agreement "[i]f a State commission fail to act to carry out its responsibility under this section".)

C. CLECs Have the Right to Demand Compliance Mechanisms In Agreements Implementing Section 251.

Both the Commission and the states have to confront a very fundamental question before addressing the substantive details of Section 251: How are Section 251 agreements going to be enforced? It is obvious that the Commission and the states are poorly positioned to act as enforcement mechanisms. Appropriations ceilings, furloughs, backlogs of complaints, all make it obvious that asking the Commission or the states to enforce what may prove to be hundreds or even thousands of Section 252 agreements is tantamount to no meaningful enforcement at

all.

But these agreements have to be enforceable in some way in order to give the statutory requirements any meaning. The "checklist" process required by Congress would quickly become an ugly charade if the RBOCs discover they can issue any promises they want in Section 252 agreements, get their Section 271 petitions stamped "approved" by the Commission, and then "slowroll" implementation so long as they please while CLECs spend money and time trying to urge courts, which will be totally unfamiliar and uncomfortable with the issues involved, to issue injunctive relief.[29]

This is not fear-mongering. It is precisely what happened in connection with the early introduction of competition into the long distance industry, and it is already occurring in locations where interconnection supposedly exists. Brooks Fiber Properties (formerly City Signal) has discovered in Michigan that it cannot rely on Ameritech's promises concerning interconnection (see Attachment A). It does not matter whether Ameritech misses cut over dates out of incompetence or anti-competitive intent, the damage to Brooks Fiber in the eyes of its customers is tremendous.[30] Similarly in the Pacific Northwest, it is irrelevant whether US West is being anti-competitive or carefully watching its budget by installing undersized trunk groups to handle interconnection with Electric Lightwave, Inc. When ELI's customers get a fast-busy signal for calls they are accustomed to completing with ease, they will blame ELI, not US West.

The '96 Act demands performance, not just promises. It necessarily follows that CLECs have the right to include ordinary and prudent compliance mechanisms in their agreements implementing Section 251. Such mechanisms should include, but are not limited to, provisioning interval requirements for order processing and installation, quality standards, mandatory and binding arbitrations, liquidated

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[29] See NARUC Work Group Report at ii: "Overall, due to the minute presence of alternative switched local service providers, and also due to the uncertainty of the long term performance of new entrants in this market (regardless of the size of certain new entrants and their other ventures), changes in the current regulatory requirements for incumbent local exchange companies should be considered very cautiously. Commissions should recognize that some restrictions should be removed only as competition progresses."

[30] See also ***In the Matter of Teleport Communications - New York v. NYNEX***, complaint filed May 8, 1995, File No. E-95-4, concerning NYNEX's refusal to accept LOAs from TCG customers..

damages for failure to meet performance standards, performance bonds, etc.[31] There is nothing novel about the notion that a commercial agreement should contain enforcement mechanisms which can make judicial enforcement less likely. Home lenders require mortgages, disputes between securities dealers and purchasers are arbitrated, procurement contracts have standard arbitration agreements, repair firms are bonded, etc. And phone companies often insist that customers with poor payment records post deposits. It is just good business practice to minimize any need for judicial recourse in a commercial arrangement, and it is critical to the implementation of Sections 251, 252 and 271. If the RBOCs can issue promises instead of real commercial arrangements, the core of the Act becomes meaningless.

IV. SECTION 253 - REMOVAL OF BARRIERS TO ENTRY

Section 253 of the Act provides that no "State or local statute or regulation . . . may prohibit or have the effect of prohibiting the ability of any entity to provide an interstate or intrastate telecommunications service."

Any state law or regulation that has the effect of prohibiting the provision of service by any telecommunications provider may be preempted by the Commission. States retain the ability to protect and advance universal service, protect the public safety and welfare, ensure the continued quality of services, safeguard consumers and manage the public rights-of-way as long as these things are accomplished in a competitively neutral and nondiscriminatory way.

The members of ALTS have gained considerable experience with the states and local authorities as they have attempted to provide competitive local exchange services in competition with incumbent local exchange providers. Often the process of obtaining necessary certifications from state public utility commissions and agreements from the local authority has been excruciatingly slow and extremely expensive. More than once members of ALTS have simply given up rather than continue to fight an entrenched state or local government for the right to provide service. In those circumstances in which the competitive supplier has pushed and eventually won the right to provide service, it generally has been under conditions and at costs that the ILEC has never had to face. Congress, in enacting

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[31] See, e.g., Implementation of Section 273(d)(5) of the Communications Act of 1934, as amended by the Telecommunications Act of 1996 -- Dispute Resolution Regarding Equipment Standards, GC Docket No. 96-42, NPRM released March 5, 1996, proposing "binding arbitration as the dispute resolution process" (¶ 3).

Section 253 has clearly stated its intention that state and local barriers to effective competition violate federal policy. Although the Act does not require the Commission to adopt rules relating to barriers to entry, it is important that the Commission make clear to the states that certain actions and requirements that have historically been imposed on competitive providers are not valid under the Act.

To aid the Commission in its consideration of its role in encouraging competition at the local level, ALTS members have compiled some examples of state certification and requirements that municipalities have forced upon competitive providers that result in either actual or effective prohibition of service by competitive providers. These are the type of laws and regulations that should be preempted under the new Act.

Certification requirements: Under the '96 Act, a state has the authority only to consider certain limited matters, and any attempt to reintroduce traditional certification requirements, such as a condition that a new entrant maintain the revenue stream of the ILEC, for example, cannot withstand scrutiny under the Act.[32]

Further, certification requirements which seek to impose onerous and unnecessary conditions should be found to effectively prohibit entry and thus be inconsistent with Section 253. For example, many ALTS members have often had to wait many months to obtain certification. The Commission should recognize that the simple act of sitting on an application not only prohibits a competitive provider from commencing business in an appropriate amount of time, but may lead to withdrawal from the proposed market. While the Act clearly prohibits such behavior in the future, the Commission ought to recognize that any attempts to impose unnecessary certification standards, or to delay entry of CLECs beyond a certain time period is presumptively a barrier to entry. ALTS suggests that the time period for processing of any state duties which remain under the Act should be no longer than two months.

Another source of delay for CLECs has been ILEC refusals to negotiate with CLECs prior to a grant of state certification. The certification time barrier is multiplied by these ILEC refusals. The Commission should make it clear that as soon as a request for interconnection services or network elements has been made

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[32] See, e.g., NARUC Work Group at 8: "Local service competition should not be prohibited on the basis of potential effects on the incumbent providers or universal service, nor delayed until Bell Operating Companies receive interLATA relief."

under Section 252, the duty to negotiate in good faith attaches to the IlEC even if remaining state requirements are sill pending (see SWB's behavior discussed above at p. 10).

Local Requirements: The authority of municipalities to control the entry or services of a competitive carrier is now limited to the administration of rights-of-way.[33] The Commission needs to articulate the principle that all service providers should have equal, nondiscriminatory access to public and private rights-of-way, and the facilities located therein, including poles and conduits. Municipalities should be prohibited from including unreasonable or discriminatory requirements relating to the use of the rights-of-way in their agreements with competitive providers. An example of a discriminatory requirement would be one that forced the competitive provider to construct only beneath ground when that requirement is not placed on the ILEC.

In the past municipalities have refused to grant "franchises" unless the competitive provider agrees to a number of expensive and competitively harmful demands unrelated to the use of public rights-of-way. For example, municipalities have attempted to regulate the services that can be provided over the facilities of the competitive provider. While it was often unclear that the municipalities had the right under state law to do this, it is now absolutely clear under federal law that the municipalities have no authority to regulate services.

CLECs also have been required to pay for a public referendum relating to their provision of service and often have been required to provide free or reduced service to the local governments or schools and hospitals. Sometimes, municipalities have required the competitive carrier to agree to undertake obligations unrelated to the provision of service in order to commence operations. For example, cities have required new entrants to set up a scholarship fund, contribute to the training of minorities, or contribute to the creation of a public park. Obviously, these types of requirements have been superseded by the '96 Act,

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[33] Section 253(c) is supported by Section 303, which states that a cable operator "shall not be required to obtain a franchise under this title for the provision of telecommunications services." Although Section 303 does not mention the municipal authority to manage the public rights of way, the conference report indicates that is the sole area in which the conferees wanted the municipalities to retain authority. S. Conf. Rep. No. 104-230, 104th Cong., 2d Sess., Title III, Section 303 (1996). Taken together, these two sections clearly indicate Congress' intent that municipalities no longer regulate the provision of telecommunications services except as they affect management of the public rights of way.

but it is important that the Commission articulate this. In addition, any free service to the municipality or reduced fee requirement cannot be allowed under the Act.

Obtaining agreements for the use of the public rights-of-way has also been extremely time consuming and expensive. Often, the municipality will assess a fee that is far above the costs that the city would incur to administer the use of the rights of way. These fees have been as high as $100,000 just to begin service. Sometimes the fee is a yearly fee based on a percentage of CLEC revenues (often set at 5% of revenues), costs which generally the ILEC is not required to incur. In addition, cities have required bonds far above that required to cover accident or injury incurred during construction. Again, while the '96 Act itself is clear, the Commission ought to insure state compliance by making it unmistakable that any fees must be based on the actual cost of administering any use of the streets and rights of way. Any fees assessed must be on an equal basis with respect to all providers of local exchange service.

Finally, undue delay by the municipalities in crafting an agreement relating to rights-of-way is unacceptable. The same principle articulated above with respect to certification delay, where certification requirements still exist, should also apply to franchise agreements.

MPSC Complaint Outline
Ameritech Violations

Item	Description	Damages
Tie Cable Access	Failure to provide service in accordance with their tariff. Violation of previous Commission orders ordering tie-cable interconnection. BFC request for interconnection in a 2/16 memo. No response from Ameritech.	Inability of BFC to complete construction of network. Failure of BFC to utilize most efficient engineering design. Non-productive capital expenditures.
S7 DID	Failure to provide service after successful completion of technical trial. Failure to honor 9/21 memo and 11/30 agreement. BFC request for interconnection in 2/26 memo. No response from Ameritech.	Inability of BFC to offer cost effective number portability solution with Caller ID capabilities.
Unbundling Coordination	Failure of Ameritech to coordinate installation of unbundled loops in a fashion that produces minimal customer dislocations.	Customer dissatisfaction with service installation. Cancellation of orders, switch-back to AMI.
DA Omissions	Customers dropped from DA. Customers notified from DA rep and local service rep that they will not be in DA database if served from BFC.	Customer dissatisfaction. Cancellation of orders, switch-back to AMI.

Confidential Information - not to be circulated

Unbundling Service Discrimination	Ameritech providing service to customer at intervals shorter than can be provided by BFC through unbundling.	Loss of customers to AMI.
800 Tie-in	Ameritech refusal to hook-up unbundled loop and disconnect their customer when that customer purchases 800 or 900 services from Ameritech.	Delays in customer cutover. Loss of customer. Customer dissatisfaction.
Customer Mis-epresentations	Ameritech technicians, salespersons, service representatives, DA operators claiming that the customer will not be able to obtain certain services, or that the quality of services will be poor, from BFC.	Customer anxiety, dissatisfaction, customer losses.
Access Billing	Failure of Ameritech to transmit tapes to BFC in order for BFC to render bills to the IXC's for terminating access services.	Financial loss of revenues.

ATTACHMENT B

Southwestern Bell

March 1, 1996

ic Zamora
e President
mpetitive Assurance

Ms. Cindy Z. Schonhaut
Vice President-Government Affairs
IntelCom Group (U.S.A.), Inc.
1050 Seventeenth Street, Suite 1610
Denver, Colorado 80265

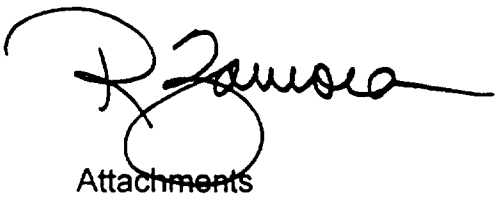
Dear Ms. Schonhaut:

This is to acknowledge receipt of your letter dated February 23, 1996, addressed to David Cole, President-SWBT Texas, requesting commencement of good faith negotiations in compliance with the Telecommunications Act of 1996.

Although Southwestern Bell does not entirely agree with your characterization of the requirements of the new law, we are ready to proceed with negotiations in accordance with our mutual obligations under the new federal law. I have enclosed some general information which should be helpful in preparing for an initial meeting. As noted in the Joint Explanatory Statement of the Committee of Conference, the "duties imposed under new section 251(b) make sense only in the context of a specific request from another telecommunications carrier or any other person who actually seeks to connect with or provide services using the LEC's network." Upon receipt of your "specific request," I will arrange for us to meet. In addition, I have also included a nondisclosure agreement to protect the proprietary nature of our upcoming negotiations.

I have assigned Jeff Fields to be your account manager and central point of coordination. Please contact Jeff Fields at 214-464-5676 to arrange for an initial meeting. Please note that final agreement will be conditioned upon Texas Public Utility Commission approval of the interconnection contract.

Sincerely,



Attachments

ne Bell Center
uite 4208
t ouis, Missouri 63101

e 314 235-5555
314 235-6787

MUTUAL CONFIDENTIALITY AND NONDISCLOSURE AGREEMENT

WHEREAS, IntelCom Group (U.S.A.), Inc. and its subsidiary companies, and Southwestern Bell Telephone Company (collectively, the "Parties") desire to enter into negotiations regarding the rates, terms, and conditions under which SWBT will provide interconnection to ICG pursuant to the Telecommunications Act of 1996 (the "Act"); and

WHEREAS, the Parties' negotiations will necessarily include the disclosure of trade secrets and other highly confidential and/or proprietary information and data by the Parties;

NOW, THEREFORE, in consideration of mutual promises exchanged and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the Parties agree to the following terms governing the confidentiality of certain information one party ("Owner") may disclose to the other party ("Recipient"). As used in this Agreement, the term "Recipient" includes any of the Recipient's employees or agents;

1. **DEFINITIONS.** For purposes of this Confidentiality and Nondisclosure Agreement ("Agreement"), "Confidential Information" means all information of Owner or another party whose information Owner has in its possession under obligations of confidentiality, in whatever form transmitted, relating to business plans or operations, network design, systems and procedures and/or the sale, purchase, and use of services, which is disclosed by Owner or its affiliates to Recipient or its affiliates indicating its confidential and proprietary nature and marked confidential or proprietary. The term "affiliate" shall mean any person or entity controlling, controlled by or under common control with a party. The information, if in tangible form, shall be marked prominently with a legend identifying it as confidential. If the information is oral, then it shall be presumed by the Recipient to be confidential.

Notwithstanding the foregoing, Confidential Information shall not include any information of Owner that (a) was in the public domain at the time of the disclosing party's communications thereof to the receiving party; (b) entered the public domain through no fault of the receiving party subsequent to the time of the disclosing party's communication thereof to the receiving party; (c) was in the receiving party's possession free of any obligation of confidence at the time of disclosure by the other party; or (d) was disclosed to the receiving party by a nonparty source, free of any obligation of confidence, after disclosure by the party; or (e) was developed by employees or agents of the receiving party independently or and without reference to any of the Confidential Information that the disclosing party has provided to the receiving party. This Agreement shall not preclude either Party from exercising its rights to seek mediation or arbitration in accordance with the Act with respect to these negotiations; however, in the event of such mediation or arbitrations, the Parties agree to seek confidential treatment of information disclosed in that process. In the event the Parties reach an interconnection agreement which is approved by the applicable State regulatory commission, the Parties agree to file that approved agreement as a public record in accordance with the Act.

2. **OWNERSHIP.** All Confidential Information in whatever form (including, with limitation, information in computer software or held in electronic storage media) shall be and remain property of Owner. All such Confidential Information shall be returned to Owner promptly upon written request and shall not be retained in any form by Recipient.

3. **NONDISCLOSURE.** Recipient shall not disclose any Confidential Information to any person or entity except employees or affiliates of Recipient who have a need to know and who have been informed of and agree to abide by Recipient's obligations under this Agreement. Neither recipient shall disclose Confidential Information to its affiliates without prior written notice to the other. Prior to any such access, the Recipient shall inform each such representative of the proprietary and confidential nature of the information and of the Recipient's obligations under this Agreement. Each such representative shall also be informed that by accepting such access, he thereby agrees to be bound by the provisions of this Agreement. Furthermore, by allowing any such access, the Recipient agrees to be and remain jointly and severally liable for any disclosure by any such representative which is not in accordance with this Agreement. Recipient shall use not less than the same degree of care to avoid disclosure of Confidential Information as Recipient uses for its own confidential information of like importance and, at a minimum shall exercise reasonable care. The Parties agree that this Agreement does not prohibit the disclosure of Confidential Information where applicable law requires, including but not limited to, in response to subpoenas and/or orders of a governmental agency or court of competent jurisdiction. In the event the Recipient receives an agency or court subpoena or order requiring such disclosure of Confidential Information, Recipient shall immediately, and in no event later than five (5) days after receipt, notify Owner in writing. All rights and obligations under this Agreement shall survive the expiration or termination of any contract or other agreement between Owner and Recipient. The obligations of the Parties under this Agreement shall continue and survive the completion of the aforesaid discussion sand shall remain binding for a period of two (2) years from the date of execution of this Agreement. This provision shall remain binding for the above-stated period, even if the Parties abandon their efforts to undertake a possible business transaction together.

4. **REMEDIES.** The Parties agree that, in the event of a breach or threatened breach of the terms of this Agreement, Owner may seek any and all relief available in law or equity as a remedy for such breach, including but not limited to, monetary damages, specific performance, and injunctive relief. The Parties acknowledge that Confidential Information is valuable and unique and that disclosure will result in irreparable injury to Owner. In the event of any breach of this Agreement for which legal or equitable relief is sought, all reasonable attorney's fees and other reasonable costs associated therewith shall be recoverable by the prevailing Party.

5. **DISCLAIMER.** This Agreement and the disclosure and receipt of Confidential Information do not create or imply (i) any agreement with respect to the sale, purchase, or pricing of any product or service; or (ii) any right conferred, by license or otherwise, in any Confidential Information or in any patent, trademark, service mark, copyright, or other intellectual property.

6. **COMPLETE AGREEMENT.** This Agreement (i) is the complete agreement of the Parties concerning this subject matter and supersedes any prior such agreements; (ii) may

not be amended except in writing signed by the Parties; and (iii) is executed by authorized representatives of each party.

7. **GOVERNING LAW.** This Agreement is governed by the laws of the state of Texas.

8. **SUCCESSORS AND ASSIGNS.** This Agreement shall benefit and be binding on the Parties below and their successors and assigns.

INTELCOM GROUP (U.S.A.), INC.	**SOUTHWESTERN BELL TELEPHONE COMPANY**
By _____	By Ricardo Zamora
Print Name _____	Print Name Ricardo Zamora
Address _____	Address One Bell Center Suite 4208
_____	St. Louis, MO 63101
Date _____	Date 3/1/96

First Point of Contact
SWBT
Local Service Provider
Account Team

Southwestern Bell Telephone (SWBT) has established a Local Service Provider (LSP) Account Team to address the needs of all LSPs. The members of the LSP Account Team possess diverse backgrounds in the area of telecommunications and are available to address LSP inquires regarding service establishment. The LSP Account Team serves as the first point of contact for potential LSPs and works in tandem with many other telecommunications experts throughout SWBT to ensure LSP service needs are met.

LSP Account Team

Southwestern Bell Telephone
One Bell Plaza
Suite 0525
Dallas, TX 75202

Phone: 214-464-1665
Fax: 214-464-1486

SWBT/02/16/96

Entry Into The Local Telephone Exchange Business

Doing Business With Southwestern Bell Telephone Company

What are the requirements to enter the local telephone exchange market?

Certification

In order to provide local exchange telephone service, basic local telecommunications service, or switched access service, certification must be obtained from the applicable State Commission.

Copies of the application forms can be obtained by contacting the State Commission directly. Contact numbers for each Commission are included in this informational packet.

To express interest in initiating negotiations for local interconnection, an LSP should submit a written request to SWBT. This request should outline requirements for the desired interconnection arrangements. Once a request is received, SWBT will promptly schedule an initial meeting to begin negotiations.

Additional Requirements

In order to facilitate successful provisioning for the resale of local exchange telephone services and/or interconnection arrangements with SWBT, an LSP must also provide the following:

☑ ***Operating Company Number (OCN)***

☑ ***Confirmation of End User Authorization***

☑ ***Toll Free Means of Communication (For Service Order & Repair Coordination)***

In addition, facility based LSPs will need to obtain the following:

☑ ***NXX Assignments***

☑ ***Common Language Location Identification Codes (CLLI™)***

In addition to the items noted above, an LSP may find it helpful to obtain other information pertaining to the provisioning of local exchange telephone service in the state(s) which the LSP intends to do business.

Other Available Information

Other resource information regarding entry into the local exchange telephone business is also available. An LSP may wish to obtain one or several of these resources.

☑ ***State Statutes or Rules***

☑ ***Tax Exemption Forms***

☑ ***Local Exchange Routing Guide (LERG)***

☑ ***SWBT Tariffs***

- ***Local Access Service Tariff***
- ***Local Exchange Tariff***
- ***General Exchange Tariff***
- ***Intrastate Access Tariff***
- ***Interstate Access Tariff***

Specific information and applicable forms are included in this informational packet.

IntelCom Group (U.S.A.), Inc.
ICG

February 23, 1996

VIA OVERNIGHT MAIL

David Cole, Regional President
Southwestern Bell--Texas
1616 Guadalupe
Austin, Texas 78701

Re: Request for Interconnection Negotiations Pursuant to Section 251(c)(1) of the Telecommunications Act of 1996

Dear Mr. Cole,

As you know, President Clinton recently signed into law the Telecommunications Act of 1996. I am writing to inform you that pursuant to Section 101 of that Act, creating new Section 251(c)(1) of the Communications Act, IntelCom Group (U.S.A.), Inc., (IntelCom Group), on behalf of itself and subsidiaries, including ICG Access Services, Inc. and ICG Telecom Services, Inc., providing telecommunications services in Texas requests that Southwestern Bell--Texas commence good faith negotiation with us to fulfill the interconnection duties described in paragraphs (1) through (5) of new Section 251(b) and paragraphs (2) through (6) of new Section 251(c). I also remind you that as a precondition to receiving authority to provide interLATA services in-region, Southwestern Bell--Texas must offer terms and conditions for interconnection with its local network facilities and services that satisfy the more extensive 14-point checklist provided in new Section 271(c)(2)(B).

In accordance with the duties of incumbent local exchange carriers found in new Sections 251 and 252 of the Telecommunications Act, and pursuant to the specific interconnection requirements added in new Section 271(c)(2)(B) as a condition for interLATA authority, the following arrangements are offered as a general framework from which we may commence interconnection negotiations:

1. Network Interconnection Architecture (New Sections 251(c)(2), 271(c)(2)(B)(i), (x))

IntelCom Group and Southwestern Bell--Texas should establish efficient and reciprocal interconnections between their respective networks. Any interconnection established between the parties should include non-discriminatory and real-time access to databases and associated signaling necessary for call routing and completion, and this access should be provided at cost-based rates pursuant to new Section 252(d)(1).

1050 Seventeenth Street, Suite 1610 Denver, Colorado 80265 Main: 303 572 5960 Fax: 303 592 7014

2. Meet-Point Billing Arrangements (New Sections 251(c)(2)(D) and 271(c)(2)(B)(i))

Southwestern Bell--Texas should extend to IntelCom Group meet-point billing arrangements so that IntelCom Group may timely offer a common transport option to parties purchasing originating and terminating switched access services from IntelCom Group's end office switches which it utilizes to provide local exchange services.

3. Reciprocal Exchange of Traffic and Compensation (New Sections 251(b)(5) and 271(c)(2)(B)(xiii))

IntelCom Group and Southwestern Bell--Texas should reciprocally exchange traffic between their networks, so as to allow the seamless and transparent completion of all intraLATA (including "local") calls between their respective exchange service users in a given LATA. The termination rate should be imputable into Southwestern Bell--Texas's end user calling rates, after discounts. Such arrangement is contemplated by new Section 252(d)(2)(B)(i) of the Communication Act.

Additionally, Southwestern Bell--Texas should agree to route traffic through its tandem network in order to enable the efficient interchange of traffic between IntelCom Group and other local service competitors or independent LECs operating in the LATA, via the same trunk groups over which IntelCom Group and Southwestern Bell--Texas exchange traffic in that LATA. Such transiting function should be provided at the option of IntelCom Group and the other carriers. For such traffic which IntelCom Group originates to another local competitive carrier or independent LEC, Southwestern Bell--Texas should bill IntelCom Group a reasonable, incremental cost-based transiting charge per minute; Southwestern Bell--Texas should be responsible for negotiating transiting compensation with the other competitors or independent LECs for traffic they originate to IntelCom Group, via the Southwestern Bell--Texas tandem. To the extent Southwestern Bell--Texas offers a more favorable transiting charge to any other independent or competitive local service provider, Southwestern Bell--Texas should provide that same rate to IntelCom Group.

4. Ancillary Platform Arrangements (New Sections 271(c)(2)(B)(vii-viii))

The agreement should enable IntelCom Group to offer seamless service by establishing access to all applicable ancillary platform arrangements, including the following: 9-1-1/E-9-1-1, Directory Assistance, Directory Listings and Directory Distribution, Transfer of Service Announcement, Coordinated Repair Calls, and Busy Line Verification and Interrupt. IntelCom Group must be allowed access to these platforms on non-discriminatory and cost-based terms pursuant to the pricing standards established in new Section 252(d)(1). 9-1-1 access must include: (1) appropriate trunk connections to Southwestern Bell--Texas 9-1-1/E-9-1-1 selective routers or tandems; (2) automated procedures for loading IntelCom Group-supplied data into Automatic Line Identifier (ALI) databases; and (3) comply with all local and regional 9-1-1/E-9-1-1 plan requirements.

5. Unbundled Loops (New Sections 251(c)(2),(3) and 271(c)(2)(B)(ii),(iv))

Southwestern Bell--Texas should provide unbundled loops to IntelCom Group on cost-based terms (pursuant to new Section 252(d)(1)), along with a specific rollout plan. IntelCom Group should be allowed to access and interconnect with unbundled loops via expanded interconnection facilities. Loops should be provided at a fixed, monthly recurring, per-loop rate which is imputable into standard bundled local exchange access line rates. All relevant quality, provisioning, maintenance and conversion intervals for unbundled loops should be comparable in all material respects to the quality and intervals Southwestern Bell--Texas provides to its most favored end users for bundled access line services.

In addition to the unbundling of loops from the central office to the customer premises, IntelCom Group also requests: (a) interconnection pursuant to Section 251(c)(2) at the first point in the network (looking out from the central office) at which it can obtain access to a dedicated pair of copper wires to the customer's premises; and (b) unbundled access pursuant to Section 251(c)(3) to the portion of the local loop extending from this interconnection point to the customer's premises. Depending on the configuration of the local network, the interconnection point may in some instances be at the central office itself, but in other instances may be at other intermediate distribution points in the network, including, for example, locations where copper loops are connected to a remote switching module, or to the subscriber terminal of a Digital Loop Carrier or similar loop carrier system.

6. Number Portability (New Sections 251(b)(2) and 271(c)(2)(B)(xi))

Until such time as permanent number portability has been fully implemented pursuant to new Section 251(b)(2), IntelCom Group and Southwestern Bell--Texas will provide interim number portability to one another through the use of remote call forwarding ("RCF") capabilities. Interim and permanent number portability should include telephone numbers used for the provision of information services, including but not limited to "976" prefixes. On all calls which terminate to a party through an RCF arrangement, that party should be compensated by the party providing the RCF arrangement, as if the call had been directly-dialed to the telephone number to which the call had been forwarded. Thus, for instance, an RCF'ed interLATA call would be compensated at the otherwise applicable intrastate terminating switched access rate; an RCF'ed "local" call would be compensated at the reciprocal compensation rate which would otherwise apply for direct-dialed local calls. The parties should commit to migrate to the statutorily required permanent number portability solution as soon as technically possible. The cost of implementing permanent number portability must be borne by all telecommunications carriers on a competitively neutral basis pursuant to new Section 251(e)(2).

7. Access to Rights-of-Way (New Sections 251(b)(4) and 271(c)(2)(B)(iii))

Southwestern Bell--Texas should afford IntelCom Group access to its poles, ducts, conduits, and rights of way to the extent needed by IntelCom Group to provide local exchange services. This includes access to customer buildings, and "telephone closets," risers, and conduits within buildings. Such access should be provided at rates, terms, and conditions consistent with the Pole Attachments Act of 1978 as amended by the Telecommunications Act of 1996 (amended 47 U.S.C. Sec. 224).

8. Resale of Local Services (New Sections 251(c)(4) and 271(c)(2)(B)(xiv))

Southwestern Bell--Texas should offer to IntelCom Group for resale, at wholesale rates as defined in new Section 252(d)(3), any telecommunications services that Southwestern Bell--Texas provides at retail to subscribers who are not telecommunications carriers.

9. Physical Collocation (New Section 251(c)(6))

IntelCom Group requests that Southwestern Bell--Texas provide IntelCom Group physical collocation of equipment necessary for interconnection or access to unbundled network elements at the premises of the local exchange carrier to the extent that space is available at such locations.

10. Numbering Administration (New Sections 251(b)(3) and 271(c)(2)(B)(ix))

Until the date by which telecommunications numbering administration guidelines, plan, or rules are established pursuant to new Section 251(e), Southwestern Bell--Texas should provide non-discriminatory access to telephone numbers for assignment to IntelCom Group's customers.

11. Notice of Changes (New Section 251(c)(5))

IntelCom Group requests that Southwestern Bell--Texas advise us as to how it intends to provide reasonable public notice of any changes in the information necessary for the transmission and routing of services using Southwestern Bell--Texas's facilities or networks, as well as any other changes that would affect the inter-operability of those facilities and networks.

The above listing of requested arrangements is meant only to provide a basis from which to commence interconnection negotiations. IntelCom Group reserves the right to suggest additional or modified arrangements as negotiations proceed. It is the hope of IntelCom Group that a legally sufficient and mutually satisfactory agreement may be reached voluntarily between the parties. In the case that this is not achievable, however, IntelCom Group reminds Southwestern Bell--Texas that if no agreement is reached within 135 days from the date of this letter, either party may request that the State commission enter the negotiations as arbitrator of any unresolved issues pursuant to new Section 252(b).

In light of the need to engage in meaningful negotiations before the expiration of the 135 day period provided for voluntary negotiations in the new Act, IntelCom Group requests a written response to this letter by March 10, 1996. Upon receiving your written acceptance to engage in these statutorily required negotiations, we hope to arrange with you a preliminary schedule of meetings to discuss these issues in detail.

I look forward to your prompt response to our request to negotiate a comprehensive interconnection agreement pursuant to the terms specified in the newly enacted Telecommunications Act of 1996. Should you have any questions as to this correspondence, please contact me at (303) 575-6533 or Regina LaCroix at (303) 575-6532.

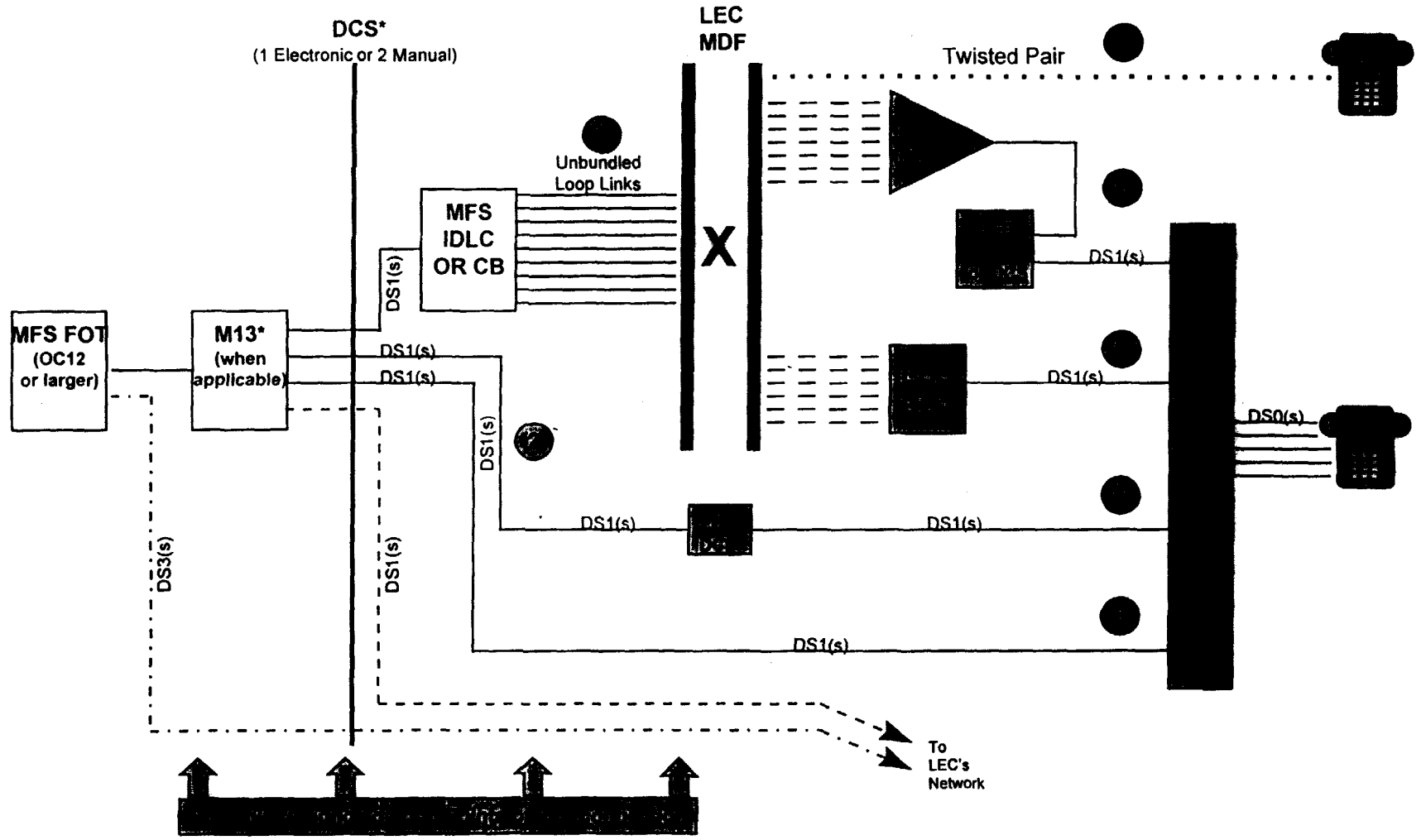
Sincerely,

Cindy Z. Schonhaut

Cindy Z. Schonhaut
Vice President, Government Affairs

cc:

ILLUSTRATIVE CO-CARRIER UNBUNDLED LOOP INTERCONNECTION ARRANGEMENTS



* Two Options (also, see attachments):
1) MFS provides.
2) MFS purchases from LEC.

02-09-96 RWM MCLPGN2B

MFS™
Communications Company, Inc.

ATTACHMENT C

ILLUSTRATIVE CO-CARRIER UNBUNDLED LOOP INTERCONNECTION ARRANGEMENTS

Depiction, from left (MFS' network) to right (incumbent LEC's network):

MFS FOT (Fiber Optic Terminal): MFS' collocated transmission equipment connected to MFS' fiber optic cable; used for special access and switched transport services as well as co-carrier unbundled loop services.

M13 (Multiplexer): MFS may provide this multiplexing through its collocated equipment or may purchase this multiplexing from incumbent LEC's existing tariffs (note that incumbent LEC may provide its tariffed multiplexing service through an electronic DSX instead of a separate multiplexer when MFS purchases that LEC's multiplexing product).

DCS (i.e., DSX - Digital Cross Connect System): This cross connect may be provided by MFS, by incumbent LEC or by both MFS and incumbent LEC, depending on the particular collocation design in the central office. As indicated above, this equipment may be used to provide tariffed multiplexing service.

MFS IDLC (Integrated Digital Loop Carrier) or CB (Channel Bank): MFS supplies and installs this equipment (through the use of incumbent-LEC-approved installation personnel/vendors). Under virtual collocation, incumbent LEC maintains this equipment and provisions circuits to it. Under physical collocation, MFS maintains this equipment and provisions circuits through the use of incumbent LEC's unbundled loop links.

Unbundled Loop Links  : Incumbent LEC delivers these voice-grade-level links to MFS' collocation equipment area or permits MFS to construct them through the use of authorized personnel/vendors. These may, at the option of MFS, be two-wire or four-wire connections and would provide the same analog and digital (including ISDN) capabilities as incumbent LEC's own loops.

DS1-Level Unbundled Loop Cross Connects  : MFS may, as an option to the above unbundled loop link approach, purchase from incumbent LEC the unbundled loops through a DS1-level handoff into MFS' collocated M13 or into incumbent LEC's tariffed multiplexing equipment which would connect to MFS' FOT.

LEC MDF (Main Distribution Frame): The cross-connect point for incumbent LEC loops.

Twisted Pair  : The traditional copper loop facility which remains widely available in collocated central offices.

LEC CB/IDT (Integrated Digital Terminal) or CB/DCS (Dig. X-Connect System)  : A non-traditional, rarely-used loop-provisioning arrangement.

LEC COT (Central Office Terminal)  : A loop-provisioning arrangement selectively deployed by incumbent LECs in some areas.

LEC DCS  **and Direct Incumbent-LEC DS1**  : Two non-traditional high-capacity loop arrangements selectively deployed by incumbent LECs in some areas.